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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,357	02/23/2004	Su Jen Chou	14253 B	8971
<div>36672 7590 05/15/2007 CHARLES E. BAXLEY, ESQ. 90 JOHN STREET THIRD FLOOR NEW YORK, NY 10038</div>				
			EXAMINER ALI, SHUMAYA B	
			ART UNIT 3771	PAPER NUMBER
			MAIL DATE 05/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/785,357

Applicant(s)

CHOU, SU JEN

Examiner

Shumaya B. Ali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1,3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baughman et al. US 6.070,568

As to claim 1, Baughman discloses a mask (fig.1, 10) comprising: an outer layer (fig.2, 40) including a plurality of hair members (**Baughman does not explicitly teach a hair member, however layer 40 is a fabric layer, and some fabric in the art can have long fibers/hair on it's outer surface**) provided on outer peripheral portion thereof to form a hairy structure and to be formed as a surfactant device to spoil surface tension of moist that are

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attached onto said hair members of said outer layer (**col.3, lines 9-15**), an intermediate layer (**fig.2, 30**) of active carbon materials attached onto said outer layer, for absorbing odors, nervous or poisonous gases, and for filtering viruses, or germs (see **“middle activated carbon fiber fabric mesh layer”** in **col.2, lines 3,4, and 57-67**), and an inner layer (**fig.2, 20**) of anti-moist cloth materials (see **“highly permeable to air”** in **col.2, line 55**) attached onto said active carbon intermediate layer and capable of engaging with users, and preventing said active carbon intermediate layer from contacting with the users, said inner layer and said active carbon intermediate layer and said outer covering layer being secured together to form an integral structure, and to prevent said inner layer and said active carbon intermediate layer and said outer covering layer from being disengaged from each other (**col.2, lines 6-8, and col.3, lines 15-18**).

As to **claim 3**, **Baughman** discloses the mask as claimed in claim 1, wherein said inner layer and said active carbon intermediate layer and said outer covering layer are secured together with stitches (**col.2, lines 6-8, and col.3, lines 15-18**).

As to **claim 4**, **Baughman** lacks the mask as claimed in claim 1, wherein said inner layer and said active carbon intermediate layer and said outer covering layer are secured together with weaving processes. **However, Applicant has not stated why a specific securing form is critical to the invention. Therefore, whether the layers are sewn or weaved together do not seem to affect how the mask would function. Therefore, it would have been obvious matter of design choice to modify Baughman to obtain the invention as specified in claim 4.**

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baughman et al. US 6,070,568 in view of Steinberg US 4,467,799

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As to claim 2, Baughman lacks the mask as claimed in claim 1, wherein said outer layer is treated with anti-virus and/or anti-germ medical materials, to increase an anti-virus and/or anti-germ effect of said outer layer, however, Steinberg teaches transparent odor free face mask with bacteriocide coating (see col.1, lines 34-36). Therefore, it would have been obvious to one of ordinary skill in the art to apply a bacteriocide coating to the outer layer of Baughman's mask in order to kill bacteria as taught by Steinberg.

Conclusion

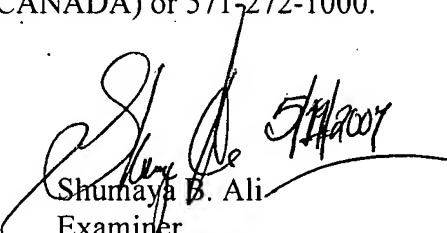
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kapp et al. (US 4,382,440), Schmidt (US 4,463,757), Grove et al. (US H1360), and Haber et al. (US 4,790,307) are cited to teach multilayer mask.

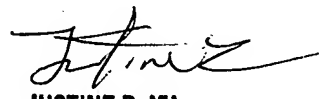
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shumaya B. Ali whose telephone number is 571-272-6088. The examiner can normally be reached on M-W-F 8:30am-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Shumaya B. Ali
Examiner
Art Unit 3771


JUSTINE R. YU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
5/11/07